

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

QUINN AARON KLEIN,)	
)	
Petitioner,)	
)	
-vs-)	Case No. CIV-12-1064-F
)	
JUSTIN JONES, et al.,)	
)	
Respondents.)	

ORDER

On October 22, 2012, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation, wherein he recommended that petitioner's motion to proceed *in forma pauperis* be denied, and that unless petitioner pays the \$5.00 filing fee in full to the court clerk on or before November 12, 2012, this action be dismissed without prejudice to refiling.

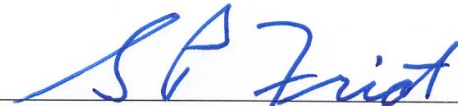
Presently before the court is petitioner's objection to the Report and Recommendation. Petitioner asserts that he does not have the funds sufficient to pay the \$5.00 filing fee because he is currently indebted to the prison facility in the amount of \$803.03. Therefore, petitioner contends that Magistrate Judge Erwin is in error in finding that he does not qualify for authorization to proceed *in forma pauperis*.

The court has conducted a *de novo* review of the matter in accordance with 28 U.S.C. § 636(b)(1). While petitioner's statement of institutional accounts submitted with his *in forma pauperis* motion shows that he had \$-788.26 in his institutional draw account as of September 17, 2012, it also shows that he had \$9.17 in his mandatory savings account. Under Oklahoma law, funds from an inmate's mandatory savings account "may be used by the inmate for fees or costs in filing a civil or criminal

action.” 57 O.S. 2011 § 549 (A)(5). Because petitioner has more than \$5.00 in his mandatory savings account, the court agrees with Magistrate Judge Erwin that petitioner has sufficient funds to pay the \$5.00 filing fee, and therefore, he does not qualify for authorization to proceed *in forma pauperis*. The court thus accepts, adopts and affirms the Report and Recommendation. The court, however, shall grant petitioner until November 26, 2012 to pay the \$5.00 filing fee.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Shon T. Erwin (doc. no. 7) is **ACCEPTED, ADOPTED** and **AFFIRMED**. Petitioner’s Motion for Leave to Proceed In Forma Pauperis is **DENIED**. Petitioner shall pay the \$5.00 filing fee to the clerk of the court on or before November 26, 2012. Failure to pay the \$5.00 filing fee by November 26, 2012 shall result in dismissal of this action without prejudice to refiling.

DATED November 2, 2012.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE